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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,015	10/29/2003	Zackary Antone James	RSW920030169US1	7067
36736	7590	09/28/2007		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER NGUYEN, QUANG N	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 09/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,015

Applicant(s)

JAMES, ZACKARY ANTONE

Examiner

Quang N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20031029</u> . | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

1. This Office Action is responsive to the Application SN 10/696,015 filed on 10/29/2003. Claims 1-30 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10/29/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

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5. As to claim 30, "*A computer program product on a computer-readable medium, the computer program product comprising: ...*" appears to be nonstatutory because in view of Applicant's disclosure, page 16, lines 3-9 provides intrinsic evidence that the **computer readable media** of claim 30 is intended to cover embodiments where the media is the transmission-type media including "digital and analog communication links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions". Since the signal itself is a form of energy rather than a machine, manufacture, process or composition of matter, as such, it fails to fall within a statutory category. Thus, the claims are not limited to statutory subject matter and are therefore nonstatutory.

To overcome this type of 101 rejection, Examiner respectfully suggests Applicants to amend the claim to include computer readable storage media/medium to store computer instructions executable by a computer processor to perform the steps of (for example, the claim should be amended as "A computer program product, embedded on a computer-readable storage medium, includes program codes/instructions executable by a computer processor for processing a service request in a network data processing system, said computer program product comprising:"). See MPEP 2105, section IV. -- DETERMINE WHETHER THE CLAIMED INVENTION COMPLIES WITH 35 U.S.C. 101 – under subsection 1. Nonstatutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-12, 16-26 and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Irifune et al. (US 2003/0112752 A1), hereinafter “Irifune”.**

8. As to claim 1, **Irifune** teaches a network data processing system, comprising:

a first a first processing unit, said first processing unit including a plurality of processing subunits (*a congestion controlling device 2 including a plurality of Web proxy servers 24-1 to 24-n*), each processing subunit of said plurality of processing subunits associated with a particular priority level of service of a plurality of priority levels of service (*each of the Web proxy servers relays the request to a device of an address described in the header of the data packet*) (**Irifune, paragraphs [0036-0037]**); and

a plurality of second processing units (*contents servers 3-1 to 3-j*), each processing subunit of said plurality of processing subunits coupled to a corresponding second processing unit of said plurality of second processing units and operable to:

responsive to a service request, convey said service request to said corresponding second processing unit in accordance with said associated priority level of service (*having received the header of a transmission/reception packet and a Web-contents acquiring request via the load distributing device 22, each of the Web proxy servers relays the request over to one of the contents servers 3-1 to 3-j*) (**Irifune, paragraphs [0036-0037] and [0047]**).

9. As to claim 2, **Irifune** teaches the network data processing system of claim 1, further comprising: a plurality of third processing units (*a plurality of client terminals 1-1 to 1-l*); and a network communication medium coupled to said plurality of third processing units and said first processing unit (*via the Internet*), whereby at least one of said third processing units of said plurality of said third processing units is operable to convey said service request to said first processing unit (*whereby the client terminals are capable of requesting information from a plurality of contents servers 3-1 to 3-1 via the congestion controlling device 2*) (**Irifune, Fig. 1 and paragraph [0032]**).

10. As to claims 3-4, **Irifune** teaches the network data processing system of claim 1, wherein said first processing unit comprises a proxy server (*a congestion controlling device 2 including a plurality of Web proxy servers 24-1 to 24-n*) (**Irifune, Fig. 1**).

11. As to claim 5, **Irifune** teaches the network data processing system of claim 1, wherein said first processing unit comprises a reverse proxy server (*since the*

congestion controlling device 2 mediates between the client terminals 1-1 to 1-i and the plurality of contents servers 3-1 to 3-j, hence, it could be implemented to include a reverse or forward proxy server) (Irifune, Fig. 1, paragraphs [0032-0034]).

12. As to claim 6, **Irifune** teaches the network data processing system of claim 1, wherein each said processing unit of said plurality of processing subunits comprises a proxy subunit (*Web proxy servers 24-1 to 24-n*) (**Irifune, Fig. 1**).

13. As to claim 7, **Irifune** teaches the network data processing system of claim 1, wherein each said second processing unit of said plurality of second processing units comprises a document storage processor (*each of the contents servers 3 comprises a document storage processor to generate/acquire Web-contents for client terminals 1*) (**Irifune, paragraph [0047]**).

14. As to claim 8, **Irifune** teaches the network data processing system of claim 1, wherein said service request comprises a request to retrieve a document from a Web page (**Irifune, paragraphs [0032] and [0047]**).

15. As to claims 9-10, **Irifune** teaches the network data processing system of claim 2, wherein each said third processing unit of said plurality of third processing units comprises a client processor and a Web browser (**Irifune, paragraph [0032]**).

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16. As to claims 11-12, **Irifune** teaches the network data processing system of claim 2, wherein said network communication medium comprises at least one of an intranet, LAN and WAN (*via the Internet*) (**Irifune, paragraph [0032]**).

17. As to claim 16, **Irifune** teaches the network data processing system of claim 1, wherein said association with said particular priority level of service comprises a global address of at least one of a document residing on a Web page and said second processing unit of said plurality of second processing units (*since the load distributing device 22 of the congestion controlling device 2 has information indicating what contents which of the Web proxy servers 24-1 to 24-n has cached, the device 21 transfers a request/data packet to a device of an address/URL described in the header of the request/data packet*) (**Irifune, paragraphs [0036] and [0041]**).

18. As to claim 17, **Irifune** teaches the network data processing system of claim 16, wherein said association comprises a URL (*a browser request from a client terminal for a Web content inherently includes a URL*) (**Irifune, paragraph [0032]**).

19. As to claim 18, **Irifune** teaches a method for processing a service request in a network data processing system, the method comprising the steps of:

receiving a service request at a first processing unit (*receiving a service request at the congestion controlling device 2*) (**Irifune, Fig. 1, paragraphs [0032]**);

associating a particular priority level of service with said service request (*associating an address/URL described in the header of the request/data packet*);

conveying said service request to a second processing unit in accordance with said particular priority level of service (*the congestion controlling device 2 distributing a processing for each of the requests from the plurality of client terminals 1 to each of the plurality of Web proxy servers 24 based on the header of the request and the requested Web content*) (**Irifune, paragraphs [0036-0037]**); and

processing said service request in accordance with said particular priority level of service (*if the contents have hit the cache, the requested contents are transmitted to the client terminal 1, else transmits the request to the contents server 3 of the requested destination*) (**Irifune, paragraphs [0046-0047]**).

20. As to claims 19-20, **Irifune** teaches the method of claim 18, wherein said first processing unit comprises a proxy server (*a congestion controlling device 2 including a plurality of Web proxy servers 24-1 to 24-n*) (**Irifune, Fig. 1**).

21. As to claim 21, **Irifune** teaches the method of claim 18, wherein said first processing unit comprises a reverse proxy server (*since the congestion controlling device 2 mediates between the client terminals 1-1 to 1-i and the plurality of contents servers 3-1 to 3-j, hence, it could be implemented to include a reverse or forward proxy server*) (**Irifune, Fig. 1, paragraphs [0032-0034]**).

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22. As to claim 22, Irifune teaches the method of claim 18, wherein said service request includes a request to retrieve a document and a global address in an Internet of at least one of a location of said document and said second processing unit (*since the load distributing device 22 of the congestion controlling device 2 has information indicating what contents which of the Web proxy servers 24-1 to 24-n has cached, the device 21 transfers a request/data packet to a device of an address/URL described in the header of the request/data packet*) (**Irifune, paragraphs [0036] and [0041]**).

23. As to claim 23, **Irifune** teaches the method of claim 18, wherein said second processing unit comprises a document storage processor (*each of the contents servers 3 comprises a document storage processor to generate/acquire Web-contents for client terminals 1*) (**Irifune, paragraph [0047]**).

24. As to claim 24, **Irifune** teaches the method of claim 18, wherein said service request comprises a request to retrieve a document from a Web page (**Irifune, paragraphs [0032] and [0047]**).

25. As to claim 25, **Irifune** teaches the method of claim 18, further comprising the step of forwarding said service request from a third processing unit (*if the contents have not hit the cache, the Web proxy server forwards the request from the client terminal 1 to the contents server 3 of the requested destination*) (**Irifune, paragraphs [0046-0047]**).

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26. As to claim 26, **Irifune** teaches the method of claim 25, wherein said third processing unit comprises a Web browser (**Irifune, paragraph [0032]**).

27. As to claim 28, **Irifune** teaches the method of claim 18, wherein the step of associating said particular priority level of service with said service request comprises the step of associating said particular priority level of service with at least one of a global address of a document residing on a Web page and a global address of said second processing unit on said Web page (*since the load distributing device 22 of the congestion controlling device 2 has information indicating what contents which of the Web proxy servers 24-1 to 24-n has cached, the device 21 transfers a request/data packet to a device of an address/URL described in the header of the request/data packet*) (**Irifune, paragraphs [0036] and [0041]**).

28. As to claim 29, **Irifune** teaches the method of claim 28, wherein said global address comprises a URL (*a browser request from a client terminal for a Web content inherently includes a URL*) (**Irifune, paragraph [0032]**).

29. Claim 30 is a corresponding computer program product claim of method claim 18; therefore, it is rejected under the same rationale.

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Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 13-15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irifune, in view of Schoeneberger et al. (US 2004/0032862 A1), hereinafter "Schoeneberger".

32. As to claims 13-15, **Irifune** teaches the network data processing system of claim 1, but does not explicitly teach wherein said particular priority level or service comprises at least one of a high level of priority, a medium level of priority, and a low level of priority.

In an analogous art, **Schoeneberger** teaches in a multiple proxy servers environment, when a request comes in, a prioritized proxy server table is used for selecting proxy servers among a plurality proxy servers according to a priority scheme, wherein proxy servers that can respond more quickly are located/assigned at a higher level (*i.e., high level 1*), and proxy servers that will respond more slowly are designated at a lower level (*i.e., medium level 2 and low level 3*) (**Schoeneberger, Fig. 2, paragraphs [0049-0050]**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the features of associating a plurality of proxy servers with a plurality priority levels of service comprising at least one of a high, medium and low level of priority, as disclosed by **Schoeneberger**, into the teachings of **Irifune**. One would be motivated to do so to provide higher availability in servicing user requests by selecting proxy servers among a plurality of proxy servers according to a priority level of service, hence, to improve network traffic and user satisfactory.

33. Claim 27 is a corresponding combination method claim of system claims 13-15; therefore, it is rejected under the same rationale.

34. Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

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35. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Quang N. Nguyen
Patent Examiner – AU 2141
September 21st, 2007